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8
9 UNITED STATES DISTRICT COURT

10 NORTHERN DISTRICT OF CALIFORNIA

11 SAN FRANCISCO DIVISION

12 ZYNGA GAME NETWORK, INC., a
Delaware Corporation,

13 Plaintiff,

14 vs.

15 KYLE MCEACHERN, an individual, and
16 DOES I through X,

17 Defendants.
18

CASE NO. 3:09-cv-01557-SC

**ZYNGA GAME NETWORK, INC.'S
MOTION TO SHORTEN TIME ON
MOTION REQUESTING ORDER TO
SHOW CAUSE WHY KYLE
MCEACHERN SHOULD NOT BE HELD
IN CONTEMPT**

Judge: Honorable Samuel Conti

NOTICE OF MOTION AND MOTION

Pursuant to Civil Local Rule 6-3, Plaintiff Zynga Game Network, Inc. (“Zynga”) hereby seeks an order shortening time for Zynga’s Motion Requesting Order to Show Cause Why Kyle McEachern Should Not Be Held in Contempt (“Motion for Contempt”). This motion is based on this Notice of Motion and Motion; the accompanying memorandum of points and authorities; the Declaration of Claude M. Stern in Support of Zynga’s Motion for Contempt; Zynga’s Motion for Contempt; and the papers and materials on file in this case.

The hearing on Zynga’s Motion for Contempt filed today would normally not be held until Friday, June 5, 2009 at the earliest. *See* Civil Local Rule 7-2(a) (providing that “all motions must be filed, served and noticed in writing on the motion calendar of the assigned Judge for hearing not less than 35 days after service of the motion,” subject to exceptions not applicable here). Zynga requests that the Court expedite briefing and the hearing on Zynga’s Motion for Contempt as set forth below:

- Mr. McEachern’s opposition would be due on Friday, May 15, 2009.
- Zynga’s reply would be due on Wednesday, May 20, 2009.
- The hearing would be held on Friday, May 29, 2009 at 10:00 a.m.

In the proposed briefing schedule set forth above, Zynga has attempted to provide Mr. McEachern with sufficient time to prepare his opposition and to also ensure that the Court has sufficient time to review the papers in advance of the hearing. However, Zynga is agreeable to any briefing schedule the Court finds appropriate for a hearing date of May 29, 2009.

Zynga seeks an expedited schedule to prevent injury to Zynga that would result from Mr. McEachern’s continued failure to comply with the preliminary injunction ordered by the Court. As explained in Zynga’s accompanying Motion for Contempt, Mr. McEachern has failed to take any of the actions required by the preliminary injunction. Mr. McEachern has also ignored Zynga’s repeated attempts to verify his compliance with the preliminary injunction. *See* Declaration of Claude M. Stern in Support of Zynga’s Motion for Contempt (Stern Decl.) ¶¶ 3, 6.

1 The Court found in its preliminary injunction that “[i]f McEachern were to continue interfering
 2 with Zynga’s secure networks and servers, Zynga would suffer irreparable harm in the form of
 3 damage to its reputation and customer good-will.” Dkt. No. 20 at 3. By contrast, the Court found
 4 that “[t]he terms of the preliminary injunction impose little or no hardship on McEachern.” *Id.*
 5 The Court then issued a preliminary injunction requiring Mr. McEachern to take specific actions
 6 within five calendar days from issuance of the order. *Id.* at 4-5. The date of this motion is the
 7 seventh calendar day since the Court issued its preliminary injunction, and Mr. McEachern has
 8 failed to comply. Zynga requests a moderately shortened briefing schedule in order to expedite
 9 compliance with this Court’s preliminary injunction.

10 Pursuant to Civil Local Rule 6-3(a)(2), counsel for Zynga requested that Mr. McEachern
 11 stipulate to the time change. *See* Stern Decl. ¶ 7. Mr. McEachern did not respond to Zynga’s
 12 request. *See id.* The shortened schedule proposed by Zynga would not result in any prejudice to
 13 Mr. McEachern, and because no scheduling order has yet been issued, the requested time
 14 modification would have no substantial effect on the schedule for this case. *See* Civil L.R. 6-
 15 3(a)(6). Pursuant to Civil Local Rule 6-3(a)(5), there have been no previous time modifications in
 16 this case.

17 Accordingly, Zynga requests that this Court enter an order shortening time on Zynga’s
 18 Motion for Contempt as set forth below:

- 19 • Mr. McEachern’s opposition would be due on Friday, May 15,
20 2009.
- 21 • Zynga’s reply would be due on Wednesday, May 20, 2009.
- 22 • The hearing would be held on Friday, May 29, 2009 at 10:00
a.m.

23 DATED: May 1, 2009

Respectfully submitted,

24 QUINN EMANUEL URQUHART OLIVER &
 25 HEDGES, LLP

26 By _____/s/

27 Evette D. Pennypacker
 28 Attorney for Zynga Game Network, Inc.